

Group IV: claims 76-78, drawn to a method for the treatment of cholesterol independent and pleiotropic conditions.

The examiner asserted that the inventions listed in the four groups do not relate to a single general inventive concept because they lack the same or corresponding special technical feature; specifically, the examiner asserted that the technical feature of Group II is isolated peptide comprising the amino acid sequence of SEQ ID NO:2, which is shown in a 2002 publication by Zhu, et al. As such, the technical feature of Group II was said to not make a contribution over the prior art and the claims of the four groups lack unity of invention.

This restriction requirement is traversed.

Applicants submit that although the apparent prior art reference cited by the examiner discloses an amino acid sequence in Figure 1(b) that shares 100% identity with SEQ ID NO:2 of the current application, it is a predicted sequence and not that of an isolated peptide. In contrast, the present invention refers to an isolated peptide.

Furthermore, Zhu et al. states in the left-hand column, paragraph 3.3, on page 754, that the peptide of 78 residues depicted in Figure 1(b) based on the cysteine patterns found in the sequence has some similarities with some Na⁺ channel toxins.

The possible presence of maximal B loop also suggests that the peptide may belong to α -toxins. These possible functions of the predicted sequence of Figure 1(b) are only speculative. It is submitted that there is no clear indication of a credible and specific function for the putative peptide of 78 amino acids in Zhu et al. On the other hand, the peptide of the present invention having the amino acid sequence of SEQ ID NO:2, or a variant, derivative and/or fragment thereof, as clearly disclosed in the specification, has the function of HMGCoA reductase inhibitor, phosphomevalonate inhibitor, reducing the accumulation of cholesterol in the cholesterol biosynthesis pathway and/or reducing the level of serum cholesterol. The reference provides no disclosure or suggestion of the predicted amino acid sequence of Figure 1(b) having such functions.

Applicants recognize that although the restriction requirement is traversed, they still must elect the claims of a single group as designated by the examiner for initial prosecution on the merits should the restriction requirement be made final. Accordingly, Applicants hereby elect the claims of Group II, claims 55-68, directed to an isolated peptide, for initial prosecution on the merits.

The examiner further has required election of species within that group. Applicants hereby elect the isolated peptide of SEQ

ID NO:3. Applicants further elect the function of the peptide to be that of reducing the level of serum cholesterol.

Respectfully submitted,

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